

LEGAL AND POLICY
**LANDSCAPE
OF DIALOGUE**
IN NEPAL

RAM TIWARI

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Research Consultant: Ram Tiwari

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FOREWORD

Peacebuilding is a universally accepted goal for wellbeing and development of the entire planet, and individuals, organizations and communities are striving to contribute to this area since ancient times.

There are different theoretical and practical dimensions to the fact that peace workers are working for the wellbeing of people. One of the approaches that has relatively less emphasis is the institutionalization of dialogue. Therefore, GIZ Civil Peace Service program has started to research on legislative and policy landscape in Dialogue here in Nepal.

I would like to thank Ram Tiwari for his interest and availability to pursue this research. I am sure this research finding will serve as advocacy tool to continue dialogue on institutionalizing dialogue in Nepal in coming years.

At last, but not least I would like to thank our colleague Sadhu Ram Tamang for coordinating this research and his continuous creative exploration around the theme of dialogue with members of the dialogue working groups. Likewise, thank you Eva Gaderer for reviewing the content of the booklet.

Stephanie Theis,
Program Coordinator, GIZ Civil Peace Service Program.

PREFACE

Dialogue is becoming more and more referenced in Nepali rhetoric and practice in recent times. Numerous dialogue projects are being undertaken in Nepal by several dialogue practitioners. Even if there are numerous examples of successful dialogues, further clarification and a link to the actual position of dialogue in Nepal's legislative and policy framework are required.

This research emerged from this need, and therefore it hopes to provide a framework of what exists in the laws and policies of Nepal that support dialogue. The research shows that even in situations when there are not explicit references to dialogue, there are still indications of similar references that point to the dialogue work.

The research was mostly conducted by reviewing the available legal and other documentation as its focus is on the legislative and policy framework of dialogue. The interviews with the dialogue practitioners also showed that dialogue is an important tool to bridge divides from the community level to intergovernmental levels. The interviews validated the findings that came out from the review of secondary sources

It is hoped that the findings of this research will provide clarity in terms of what exists in the field of dialogue in Nepal. The findings will also help dialogue practitioners equally to understand the larger framework of their work and locate avenues for advocacy in spaces where such dialogue work is necessary but not yet happening.

Ram Tiwari

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For the strength of the dialogic process, it is important that the dialogues involve civil societies as well as government. There have, in fact, been important and constructive moves through citizens' seminars and colloquies for peace and human rights in South Asia, initiated by non-governmental regional organizations.

**- Amartya Sen,
The Argumentative Indian, P 42.**

1

DIALOGUE FUNDAMENTALS

This chapter discusses the basics of dialogue in the context of peacebuilding and conflict resolution. This basic understanding of dialogue is fundamental because it allows us to understand its heterogeneous uses in global and Nepali contexts vis-à-vis assumptions we generally possess about dialogue.

In common parlance, “dialogue” is often used to refer to conversations and is used interchangeably to mean other similar forms of communication such as discussion, debate, deliberation and even sometimes mediation. But going to the roots, the word “dialogue” derives from the Greek *dialogos*; *dia* means “through” and the *logos* means “the word”¹. Then, the literal meaning of dialogue is any communication that conveys meaning through words. In contemporary terms, dialogue is used to refer to a form of communication that involves parties expressing their perspectives with an openness to others’ perspectives without judgment and with a willingness to change. In the realm of dialogue and peacebuilding, dialogue aims to increase understanding between individuals and groups based on values of openness and trust. Dialogue is the process of coming together to build mutual understanding and trust across differences and to create positive outcomes.

David Bohm, a noted scholar known for his seminal work “*On Dialogue*”, defines dialogue as a process of ‘opening up judgements and assumptions’ and developing shared meanings. He sees dialogue

¹ David Bohm, *On Dialogue*

as a river of meaning which flows around and through people. The aim of dialogue is to engage stakeholders in a space of constructive conversations with the intent to gain an understanding of others' ways of feeling, thinking and expressing themselves, which then allows change.

The kernel of dialogue is listening to understand. Listening to differences supports a better and deeper understanding of one's own needs and interests as well as those of the other side. Dialogues are also considered "special" forms of communication where the participants actively create greater mutual understanding and deeper insight. The emphasis that we put in dialogue is not on resolving anything such as a dispute which might be a consequence of dialogue, but on improving the way in which stakeholders with their significant differences see and relate to each other.

In this way, dialogue is a transformative process that involves individuals, groups from different sides to gather for fostering understanding and sharing information on issues of importance to them. In the continuum of dispute resolution and conflict transformation, the culture of dialogue helps reduce tension and potentially transform conflicts. Dialogue puts relating at the center, it helps people see where each other's views are coming from, and it often let them overcome stereotypes they have about one another. Importantly, it helps one party see itself vis-à-vis others and within the context of conflict, and subsequently, it can transform images about oneself as well.

There are a range of ways that dialogues can be used from personal to socio-political contexts, and from individual and groups, to subnational and national levels.

2

DIALOGUE IN LEGISLATIVE AND POLICY IN NEPAL

The following sections examine the legislative, policy and general frameworks that offer legitimacy for dialogue in the context of Nepal. The chapter has been categorized into two broad parts, namely a) Constitutional and governance contexts, and b) Ethnocultural and transitional justice contexts. It is important to note that these domains are often interacting and interdependent.

2.1. CONSTITUTIONAL AND GOVERNANCE CONTEXTS

When Nepal introduced an Interim Constitution in 2007, a framework for cooperative federalism was laid out, but the Constitution did not elaborate much on the apparatuses required to roll out the federal set-up. It was only after the promulgation of Constitution of Nepal in 2015 that the country was elaborately restructured into three tiers of governments -- federal, provincial and local, and subsequently governments were elected in these three levels.

As mentioned in Article 50 of the Constitution, Nepal's federalism has been considered a cooperative one, which means that the center and federal units have come together for certain shared goals by means of cooperation (which requires dialogue of some sort to bring about cooperation). The sections below examine where the notion of dialogue has given a space in the Constitution and laws of Nepal, although implied in various forms and not necessarily referred to as "dialogue".

In the “Directive Principles, Policies and Obligations of the State”, the Article 50(2), it has been mentioned thus:

The social and cultural objective of the State shall be to build a civilized and egalitarian society by eliminating all forms of discrimination, exploitation and injustice based on the grounds of religion, culture, tradition, usage, custom, practice or on any other similar grounds; to develop social, cultural values founded on national pride, democracy, pro-people, respect of labour, entrepreneurship, discipline, dignity and harmony; and to consolidate the national unity by maintaining social cohesion, solidarity and harmony, while recognizing cultural diversity.

The notions of social cohesion and solidarity have been highlighted while the reality of social diversity as it prevails in Nepal has been duly acknowledged. When such a notion of diversity is embedded into the Constitution itself, it implies a need to keep this diversity alive in a state of cohesion and coexistence. Dialogue, however is therefore a backbone of Nepal’s democracy, and the more fostered is the culture of dialogue, the stronger this nation-state becomes.

This is mirrored also very clearly in the Article 51a(2) of the Constitution, where it states the following:

The State shall pursue the following policies: (a) Policies relating to National Unity and National Security: (1) To maintain national unity intact, while protecting the freedom, sovereignty, territorial integrity and independence of Nepal; (2) To promote national unity while developing mutual cooperative relations among the Federal Units by maintaining mutual cohesion, harmony and solidarity among various castes, tribes, religions, languages, cultures and communities;

The articles above focus on cohesion, which allows rooms to form laws and policies aimed at dialogue from the federal, provincial, and local governments.

Not only the above, in the spheres of a formal justice system, there are references made to alternative forms of dispute resolution such as mediation and arbitration.

For instance, Article 51 (k)

Policies relating to Justice and Penal System: (1) To make administration of justice speedy, efficient, widely available, cost-effective, impartial, effective, and accountable to people; (2) To pursue alternative means such as mediation and arbitration for the settlement of disputes of ordinary nature;

Article 127. Courts: (1) There shall be the following courts in Nepal: (a) Supreme Court; (b) High Court; and (c) District Court. (2) In addition to the courts referred to in clause (1), judicial institutions may be constituted at the local level to try cases under law or other institutions as required may be formed to pursue alternative dispute resolution methods.

The provision above is on alternative dispute resolutions in the context of delivering justice and thus is more focused on formal avenues of justice.

Intergovernmental disputes

Related to the structures and functions of a federal Nepal, the Constitution has foreseen that disputes might arise between these three government levels, and accordingly, certain legal measures have been laid out to address these prospective disputes. The federal government of Nepal has the authority to establish the necessary laws and procedures to implement a cooperative form of federalism, based on the fundamental ideas outlined in the Directive Principles of the State. In other words, in the event of intergovernmental or interprovincial conflict, the federal government may take the appropriate action.

Also, in relation to inter-governmental disputes, the Constitution makes a major direct provision for the formation of a high-level body called Inter-Province Council. In Article 234(1), it is said the Council's task will be to settle political disputes arising between the Federation and a Province and between Provinces headed by the Prime Minister.

Avenues for dialogue: While inter-governmental disputes are likely in federal Nepal, one usually wonders what pathways are available to address disputes arising within the same level of government (say, a dispute within a municipality itself or a dispute between the municipality and local communities)? This is where dialogue can play a role.

This kind of intergovernmental coordination is envisaged in the Federation, Province and Local Level (Coordination and Inter-relation) Act, 2020 (2077)

Local Government Operation Act, 2017

The Local Government Operation Act, 2074 (2017) has been a comprehensive law covering a wide scope of work related to local development, especially through local governments. It also includes the rights of the local governments to develop necessary laws, regulations, standards, and mechanisms related to development projects operating at the local levels.

2.2. NATURAL RESOURCES, INFRASTRUCTURES AND DIALOGUES

The Constitution of Nepal 2015 has made special provisions regarding allocation of resources between different levels of government. In Article 250, the Constitution has spelled out the formation of National Natural Resources and Fiscal Commission to address issues regarding the allocation of resources between different levels of government.

The provision of National Natural Resources and Fiscal Commission is a remarkable provision included in Nepal's federal constitution. Apparently, the commission will have a significant role to play in the event of disputes or conflicts that might arise between provinces, in relation to resources.

According to Article 251(1), there are eight functions, duties and powers of the commission, and of them, the following two are directed related to resource allocation and disputes:

h) to set basis for the determination of shares of the Government of Nepal, State Government and Local level in investments and returns, in the mobilization of natural resources,

(i) to do study and research work on possible disputes that may arise between the Federation and the States, between States, between a State and a Local level, and between Local levels, and make suggestions to act in a coordinated manner for the prevention of such disputes.

Sub-Article 1 (h) states important provisions related to the mobilization of resources. The commission can define how the shares from resources can be distributed inter-governmentally or vertically between the federal, state and local levels. The other Sub-Article 1 (i) explicitly mentions that the commission will have the power and function to oversee matters related to disputes that might arise between and within governments (inter-governmental and intra-governmental), and after studying such disputes, it can make appropriate suggestions.

However, what is notable in the above-mentioned provision is that the commission is given the right to study potential or future disputes, and to prevent such disputes from happening. It lacks clarity on whether it shall play any function in disputes already taking place and the need to manage and resolve disputes instead of preventing them from happening in the first place.

Likewise, the Sub-Article (3) under Article 251 can perhaps address the shortcomings of Sub-Articles (1) and (2) in relation to other functions that are deemed necessary to prevent, manage, or stop natural resources disputes. It states that:

(3) Other functions, duties and powers and rules of procedure of the National Natural Resources and Fiscal Commission, detailed basis required to be followed in the mobilization of natural resources or distribution of revenues, and other matters including conditions of service of the officials of the Commission shall be as provided for in the Federal law.

This provision gives rooms for dialogue-like practices, especially when such disputes are between the government and non-government entities.

In addition to the provision of a forementioned Commission, the Constitution also states that there shall be an Inter-State Council for dispute settlement. In Article 234 (1), it states the council's task will be to, "settle political disputes arising between the Federation and a State and between States."

Moreover, Article 235 has given power to the center, i.e. the Federal Parliament to make laws that might be necessary to maintain intergovernmental coordination between the different governments. Likewise, in the event of disputes that might arise between states and local governments (Gaupalika and Nagarpalika), states are given the power to settle disputes in a cooperative fashion with the conflicting bodies.

Avenues for dialogue: With this introduction of this provision in the federal context, the Commission has huge potentials in ironing out disputing differences and transforming conflicts in the event of disputes or conflicts that might arise between states in relation to resources. It can create dialogue forums. Article 251 outlines the functions, duties and powers of the Commission. The Sub-article (1) lists out its eight functions, two of them are directed related to the resource allocation and disputes.

Founded on the above, there are room for spaces for the institutionalization of community-based decision making, as espoused in the new Constitution of Nepal (2015) and the subsequent laws related to federalism. To be specific, the Article 51(g) of the Constitution (Directive Policies of the State) underscores the need of people's participation in allocation and mobilization of water and other natural resources. This can be read as an effort to loosen the grip of the hitherto entrenched centralized policy-making processes of Nepal and to make development processes participatory, inclusive, and just. Towards this end, at each *palika* level, there are Judicial Committees which have powers to arbitrate and mediate disputes taking place in communities. This caveat can be used to address disputes that might arise between people of groups in relation to infrastructures where there are multiple stakeholders involved. Based on the practices of dialogue taking place in Nepal, this avenue has been used by Dialogue Forums.

Although the Section does not spell out "natural resources" per se, in sub-Section (m), it is said that the local governments can do other development functions decided by the federal and provincial governments in relation to this. This "openness" should serve as an opportunity and leave room for dialogue practices to be used in disputes related to local resources.

The Local Government Operation Act in Section 47(l) it mentions that the local governments have power to decide over disputes related to the use of certain local resources.

There are Judicial Committees in each local government, but the Committees have mandates for arbitration and mediation in issues which are more interpersonal in nature. The local governments are mandated to developing local development projects such as local roads and irrigation projects. In terms of dispute resolution mechanisms that are related to broader issues that are typically dealt with by dialogue, there are no particular entities set up separately by or within the local governments.

The laws and policies in areas of road, irrigation, energy and local development foresee that disputes can arise in the course of building these infrastructures. However, the laws and policies have not made room for dispute settlement mechanisms apart from the litigation route. In some ways, the modus operandi of dispute resolution mechanisms has been a typical loss-compensation-appeal which is a court approach.

Most of them have kept litigation as an option, and the government entities such as Department of Roads and Electricity Regulatory Commission are supposed to act as courts. If the disputants are not satisfied by the decisions which mostly are compensations of these entities, the disputants can file cases in the appellate courts. Other kinds of disputes do not fall under the domain of these laws. For instance, disputes for example in the demarcation of routes of building road or in naming of an irrigation project are areas of disputes but these are not covered. While the contractors and private sector entities can choose to negotiation, adjudication and arbitration as espoused by the Public Procurement Act when disputes occur, in case of the aggrieved communities or individuals, the laws pointed to the redressal through litigation at courts.

Avenues for dialogue: In the field of natural resource management in Nepal, there is an apparent gap in existing laws and policies related to the road, irrigation, energy and local development infrastructures, and against this backdrop, the government acknowledges that that disputes in infrastructure development have been a problem in national development. The lack of any such mechanisms leaves a lot of rooms of practices like dialogue to take place and that is where forums like dialogue can have a space.

Districts and Dialogues

With the passing of the Constitution of Nepal 2015, Nepal essentially transitioned to a federal political-administrative setup. When local level elections were held to elect local government representatives in municipalities and rural municipalities, there was confusion regarding the role of the district in the new setup. With the election of government representatives, the district was no longer a unit of power, and that districts were not functional any longer.

In reality, the Constitution of Nepal does mention the role of districts. Additionally, the Local Government Operation Act 2017 – which is the basis of local governments' functioning – has clearly specified the functions and responsibilities of the district and district-level governance structures. However, what is true is that the roles of district-level authorities have diminished a bit.

To be more specific, the Constitution of Nepal gives the District Coordination Committee (DCC) and the District Assembly the power, among others, to coordinate between various subnational governments, in Article 220 (7). The District Assembly or *Jilla Sabha*

is an entity in every district in Nepal, which elects the DCC for the district. The language of the Article suggests that the DCC's role is to coordinate between different levels of governments situated in the district.

According to Article 220 (7), the role of the DCC and the District Assembly includes the following:

- (c) to make coordination between the Federal and the State Government offices and Village Bodies and Municipalities in the district,
- (d) to perform other functions as provided for in the State law.

Apparently, the provision in the abovementioned sub-Article 7(d) leaves room for more powers and functions for the DCC. These further powers are covered in the province law formulated by the Provincial governments.

Most of the duties mentioned here are related to monitoring and facilitating development works in the district and sub-section 8(e) relates to the settlement of disputes between the subnational governments of the district. The section states that the DCC will “coordinate and facilitate to solve disputes that might arise between any *gaupalika* and *nagarpalika* situated in the district”.

Avenues for dialogue: The District Coordination Committees are, as the name suggests, government entities mandated to coordinate between different government entities operating in the district. This also means that they can play a facilitating role between different local governments in rolling out their various duties, however, that can only happen when such DCCs become an inclusive and deliberative space – as espoused by the values of dialogue. In fact, in some districts such as Dolakha and Sindhupalchok, the DCCs acted as the coordinator of the dialogue forums and undertook dialogue work. There are potentials for dialogue to be used in the DCCs.

Having said that, DCCs are political bodies as its members come from political parties and there must be cautions in using this avenue for dialogue. Nonetheless, if clear guidelines and processes are established in the first instance, the DCCs can overcome any potential biases and can embody values of dialogue.

2.3. TRANSITIONAL JUSTICE AND SOCIO-CULTURAL CONTEXTS

After experiencing a decade-long conflict beginning from 1996, the Government of Nepal signed a Comprehensive Peace Accord (CPA) with the Communist Party of Nepal (Maoist) in 2006. The CPA charted ways of addressing conflict-era issues of justice and human rights violations by devising transitional justice mechanisms, and thereby aiming to make smooth landing to political stability. But it took almost eight years for the government and Nepalese legislature to come up with a law and bodies to govern post-conflict justice. The CPA has specifically laid out that national bodies will be established in Nepal to address conflict-era issues. However, although these provisions were made early, it took a while for the government and the political parties to take any concrete steps towards this direction.

In 2014, The Act on Commission on Investigation of Disappeared Persons, Truth and Reconciliation, was promulgated, and based on this Act (TRC Act), two important commissions were set up: Truth and Reconciliation Commission (TRC) and Commission on the Inquiry of Enforced Disappeared Persons (CIEDP). The progress of both Commissions has been slow, due to ambiguities in the Act itself. But one of the major achievements of TRC and CIEDP is that they have both collected over 60,000 complaints related to the harms caused to the victims, and now pledge to proceed with complaints.

Another promising aspect of the TRC Act and transitional justice commissions is that both Commissions have been given broad mandates to address long-overdue concerns related to justice and reconciliation. Throughout all developments in transitional justice in Nepal, different aspects of transitional justice have got disproportionate attention. While some works have been held on judicial processes and prosecutions, the issue of reconciliation has not merited attention despite having formed a Truth and *Reconciliation* Commission.

In Section 13(c) and (d) of the TRC Act, under “Functions, Duties and Powers of the Commission”, it states that the commissions shall have the following functions, duties and powers:

(c) To endeavor to bring about reconciliation between the perpetrators and victims, and to bring about reconciliation,

(d) To make recommendation on reparation to be provided to the victims or their families

The highlight above is reconciliation, and that is in the context of transitional justice and therefore there is a need to include a broader category of stakeholders. Although now, only the Truth

and Reconciliation Commission (TRC) is envisioned to lead this reconciliation work, it is evident that such TRC-led reconciliation is not going to be practical or adequate. Furthermore, in section 22 of the TRC Act, 2014, it has laid out specificities for reconciliation, focusing on the fact that the victims have an upper hand and inclusion in these processes. It says, section 22: Reconciliation may be made:

- (1) If the perpetrator or victim makes an application to the Commission for reconciliation, the Commission may bring about mutual reconciliation between the perpetrator and victim. (2) In the course of bringing about reconciliation between the perpetrator and the victim pursuant to sub-section (1), the Commission shall cause the perpetrator to regret the wrongful act he/she committed and also cause him/her to apologize to the victim.
- (3) While bringing about reconciliation pursuant to sub-section (1), the Commission may cause the perpetrator to provide reasonable compensation to the victim for the loss and damage the victim suffered.
- (4) The Commission may carry out or cause to be carried out the following acts to inspire the perpetrator and the victim in the course of bringing about reconciliation:
 - (a) To organize reconciliation functions at the sites of the armed conflict by involving the perpetrator, victim and his/her family,
 - (b) To cause to be constructed statue, public place or monument in commemoration of the deceased in the course of armed conflict by involving the perpetrator, victim and his/her family,
 - (c) To cause to be published various article, literary work, essay, song, pictures, etc. concerning reconciliation,

- (d) To enhance social and communal good faith,
 - (e) To carry out other appropriate acts.
- (5) In the circumstance where the victim died or he/she is a minor or is mentally unsound, the Commission may bring about reconciliation between the perpetrator and the family of the victim.
- (6) Notwithstanding anything contained in this Section, the Commission may not bring about reconciliation between the victim and the perpetrator with regard to whom recommendation is not made for amnesty pursuant to sub-section (2) of Section 26.

Therefore, the TRC has a mandate to work on the transitional justice issues and sort out issues related to reconciliation and dialogue. A formal route of justice is not going to be enough to deal with the cases that are pending at the Commissions and rooms for community dialogues are kept open. The Act in section 22 talks about reconciliation, which is envisaged to be a formal one and is considered close to forgiving each other. And this is planned to be done by the TRC itself, by the team of commissioners.

Avenues for dialogue: Within the objectives and mandate of the TRC on reconciliation, the local governments and/or civil society organizations can make efforts towards dialogue for reconciliation the community levels. It can be done in a way, that it does not interfere with any legal proceedings or legal provisions mentioned in the TRC Act. For community dialogues to happen, there needs to be a mechanism or a forum which can do this. Dialogue groups or forums can take this role.

Apart from transitional justice contexts, dialogues have a proven potential to be used in interfaith and intercultural contexts. In places where such interfaith tensions are likely to happen on a periodic basis, dialogues can be organized to preemptively prevent violence from happening. Moreover, dialogues can also be organized after incidents happened so that it results in interfaith understanding and can prevent such instances from happening in the future.

3

CONCLUSION AND DIALOGUE PATHWAYS

The analysis shows that although the notion and terminology of dialogue has been used more explicitly in the global context of peacebuilding and conflict transformation, there is no such exact usage of the term in Nepal's laws and policies. However, the premise that there should be coordination, cooperation and coexistence between different and diverse peoples, communities and provinces presupposes that some dialogic measures should be established.

It is clear that Nepal's laws do explicitly call for 'coordination', 'consultation' and 'dispute settlement' in various contexts. It is through these needs for coordination, consultation and dispute settlement that dialogue practices are actually taking place in Nepal. This was also revealed from the interviews done with the practitioners of dialogue in Nepal.

Importantly, there is a need for a paradigm shift in understanding about the provisions of dialogue in Nepal's legislative and policy contexts. It is useful to ask this question: are there provisions on the law or not, or what are the provisions about dialogue in Nepal? A better question to ask is: does the law or policy of Nepal prohibit dialogue programs? The answer is "No". This is also a proactive approach towards dialogue and finding spaces to work through dialogue. And this 'proactive approach' has been used by various dialogue practices in Nepal. This need for a proactive search for dialogue was also reiterated in the interviews.

Based on the above context, the following dialogue pathways can be identified in the context of Nepal:

Dialogue in intergovernmental disputes: While an Intergovernmental Council has been envisaged in the Constitution of Nepal to settle intergovernmental disputes (vertically), nothing in particular has been spelled out when disputes occur between two similar governments (horizontally). The government can use dialogue avenues in such horizontal intergovernmental disputes.

Dialogues through District Coordination Committees: Based on the understanding that Nepal's laws explicitly highlight the need for coordination among various stakeholders, dialogue can enter that space especially through District Coordination Committees (DCCs). The DCCs are given a mandate of facilitating dispute resolution between the local governments and it requires a dialogic approach.

Dialogues on community issues through local governments and Judicial Committees: While the Judicial Committees have been given power to arbitrate and mediate in interpersonal disputes, there is a gap on what needs to be done when disputes are between different communities or multiple stakeholders. These are avenues where dialogue approaches can be used to transform conflicts. Local governments are the first responders of community issues, and they are best placed to respond to such issues as they are well-versed with local realities.

Dialogues on natural resources use and infrastructure development: Related to the above, the local governments have been given mandates to undertake infrastructures at the local levels and when disputes arise in this process, there is a silence on what should be done albeit it is indicated that the local governments can facilitate in such instances. There exists a dialogue avenue to be established and used in these structures and processes. In fact, in the growing

rolling out of federalism in Nepal where we have infrastructure development projects taking full swing, development disputes are inevitable. This is where the dialogue can be used constructively.

Dialogues on community socio-cultural issues: On issues pertaining inter-cultural and inter-religious issues, there is a big room for dialogue practices to happen. In fact, in various places of Nepal, dialogues are happening on interreligious conflicts and this can be replicated in other places as well. A bigger scope of inter-cultural dialogue is clear in Nepal in this context.

Dialogues on national and local issues of transitional justice: The current deadlock in transitional justice show that there is an evident lack of dialogues between various stakeholders, including within victim groups, civil society organizations and political parties. There have been no efforts to bring these stakeholders together in a framework of dialogue or so. Therefore, there is a great scope for national dialogue in transitional justice.

In the provincial and local governmental levels, there are opportunities for these governments to address conflict related issues, especially the needs of victims. Dialogue spaces are going to be critically important to bring the conflict victims together in dialogue with the governments and find ways in which their needs are addressed. Such sub-national dialogues are important and although there are no laws that says the dialogues can happen, it is clear that there are no restrictions for dialogues to happen. As such, some dialogue programs have already begun to bring victims in dialogue with sub-national governments. And there is a great scope for this to be scaled up. Dialogue and reconciliation efforts at the sub-national and community level will have a big contribution to fill the void that exists now.

SUMMARY OF INTERVIEWS

Dialogue is mostly understood as an interaction across differences based on values of respect and mutuality. Dialogue has deeper roots in our communities and hence it is not a new idea but its applications tend to be more relevant in the present socio-political context of Nepal.

In terms of scope, dialogue has a wider scope ranging from formal (governmental and legal) to informal (community spaces). Such a scope comes from the fact that dialogue is not just reactive, but also proactive, which means that dialogue cannot just be used to solve conflicts but also to prevent them from happening. For the federal context, the need for dialogues is increasing, for instance not only to build bridges between the three tiers of governments, including contexts of intergovernmental disputes, but also to narrow the gaps between the governments and citizens.

In regard to legislative and policy landscape for dialogue, it is evident that none of the dialogues taking place in Nepal is against any law, which implies that carrying out dialogues does necessarily require specific provisions that “allow” dialogue. What is needed now, rather is the need a policy that regulates or guides dialogue works happening in Nepal. More importantly, dialogue can enable spaces to create inclusive and democratic policies in Nepal.

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ANNEX 1:

Interviews with Dialogue Practitioners

INTERVIEWEE 1¹:

PRAKASH BHATTARAI

Understanding dialogue

Dialogue promotes communication between one or more stakeholders who have some voices or concerns on the issues that have been a subject of conflict or dispute. Dialogue is a common space that allows diversity to come together and come to a shared understanding on how to move forward on the issues that are pressing for the stakeholders.

Scope and area of dialogue

Now in the present context, there are many spaces where dialogue can be used. In the federal context of Nepal, there are opportunities to engage with various governments in the three levels when there are confusions between the governments. Not only that, federalism has also shown risks of conflicts between the provinces and local governments and communities. That is where dialogue can work.

Legislative and policy landscape of dialogue

The most important entry-point for dialogue is the intergovernmental disputes. However, it is not easy for the dialogue to intervene as dialogue does not have any legally recognized identity like mediators have. There is also no regulating body for dialogue like we have Mediation Council for mediators.

¹ Interview on 29 November 2022.

INTERVIEWEE 2²:

SUSHIL BASNET

Understanding dialogue

Dialogue is a common space where common issues are discussed between multi-stakeholders. Dialogue is a platform where we can share our thoughts in a comfortable manner. Also, it is a procedural question and discussion on a multi-stakeholder issue.

Scope and area of dialogue

It is not only a current emerging point of view, if we can analyze dialogue from its historical point of view we can find that dialogue helped to change the political dimension. After the change in the political dimensions, dialogue contributed to constitutional assembly election, and to implement the constitution at the grassroots level by accepting and taking ownership of the law making process. Dialogues also play the role to bring the common people and minorities to access in the policy and decision making process. It is also applicable in governance, resource mobilization, health issues and other as a contemporary issues raised in local and national level.

Legislative and policy landscape of dialogue

Dialogue seeks a space in the developing policies in all three tiers of governments. Dialogue is working in the gap to rebuild the relationship between three tiers of government. Therefore, Dialogue is important to implement the policies and to develop policies which have not developed yet.

² Interview on 29 November 2022.

INTERVIEWEE 3³:

KAMALA BHATTARAI

Understanding of dialogue

While defining “dialogue” is very huge so it is communication between two people. We have been practicing dialogue in four districts in Koshi Province for the last 9 years including a major focus on social, economic, and political dialogue.

For the last 9 years, we have been conducting dialogue on “*Chiya*” and have been addressing problems of farmers, and the market price of tea. Though it seems very common, the arising issues and the tackling of them make me confirm that “Dialogue” is a long-term series.

Scope and area of dialogue

As I have already mentioned, the areas of dialogue are “political, economic, and social.” In the political area, we conducted a certain dialogue program, and somehow it helped to ensure a peaceful election. Our dialogue is working on the preparation of a directory of policy making and dealing with local issues.

Legislative and policy landscape of dialogue

³ Interview on 28 November 2022.

INTERVIEWEE 4⁴:

GAGAN KHATRI

Understanding of dialogue

It is a good, effective, and intelligible manner of communicating human thoughts and emotions. Apart from the formal meaning of “dialogue,” it is the acceptance and respect for each other’s differences, as well as the aim of growing together.

The scope and area of dialogue

It is difficult to define the job constraint for the dialogue, I believe it is about our own preferences in selecting its field and task. In our current practice of dialogue, we believe that it is a bit difficult to work in, we believe that it is a bit difficult to work in the area of violence, but it is all about how we frame the issues, instead of being selective over its area and constitutions, we can have a good talk with different stakeholders about ensuring social justice, strengthening inclusiveness, and this can select the accurate address, and still, how we perceive matters a lot.

Legislative and policy landscape of dialogue

As the country is at the federal level, the promulgation of the 2072 constitution and the elections at both the federal, provincial and local levels are working differently than before. If we can conduct the dialogue series, it could create a huge understanding of policy-making and pave the way for its delegation to representatives. I don’t believe there is any area where we can’t have a dialogue about issue framing.

⁴ Interview on 24 November 2022.

INTERVIEWEE 5⁵:

NIRMAL NEPALI

Understanding of dialogue

Dialogue is the process of equally understanding vulnerable people to bring them together. The empathic communication between those who are standing in different directions with different points of view, and their own issues to tackle, but the dialogue makes them find the solutions by themselves and improve their relationship. It is a process of creating respect for one another, even though they have different standpoints. Making dialogue is to understand the feelings of both parties and bring them in common space with respect and acceptance.

Scope and area of dialogue

There isn't any specificity, but we can say that based on the community's policies and issues, each action that can disturb the peace and peace-making process is an area of dialogue. As we are talking about rights, responsibilities, transparency, good governance, well-developed nations, and so on. But in reality, there are still a lot of vulnerable people who should come into the mainstream. So dialogue can work as a mediator. Dialogue can be used as a grassroots awareness program to build understanding and acting as a bridge to fulfill the gap between state and citizen.

Legislative and policy landscape of dialogue

To implement the guidelines and policies developed by state there is an importance of Dialogue, which could fill the gap of the policies formation process. Today there are lots of social issues and the local government has the authority and power to develop a policy to address

⁵ Interview on 28 November 2022.

the locally raised social issues. So the Dialogue is important to build the connection between three tiers of government. Even people are not aware about the policies, laws and bylaws developed by federal, provincial, and local governments. Dialogue could work on it to build the trust between state and citizen, and to implement those policies in the ownership of grassroots people.

GUIDING QUESTIONS FOR THE INTERVIEWS

1. What does dialogue mean to you? How would you like to define dialogue?
2. How do you see the scope and applications of dialogue in Nepal?
3. What are the legal and policy provisions related to dialogue in Nepal?

